

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

ST. PAUL FIRE AND MARINE
INSURANCE COMPANY,
Plaintiff

-VS-

LP OPERATING, LLC,
Defendant

SA-23-CV-00888-XR

ORDER ON REPORT AND RECOMMENDATION

On this date, the Court considered United States Magistrate Judge Richard B. Farrer's Report and Recommendation in this case. ECF No. 29. After careful consideration, the Court **ADOPTS** the Report and Recommendation.

ANALYSIS

I. Legal Standard

A party may serve and file objections to a report and recommendation within fourteen days. FED. R. CIV. P. 72(a), (b)(2). “Parties filing objections must specifically identify those findings objected to. Frivolous, conclusive [sic] or general objections need not be considered by the district court.” *Nettles v. Wainwright*, 677 F.2d 404, 410 n.8 (5th Cir. 1982), *overruled on other grounds by Douglass v. United States Auto. Ass’n*, 79 F.3d 1415 (5th Cir. 1996).

Courts must review *de novo* any of the Magistrate Judge’s conclusions to which a party has specifically objected. *See* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.”). Any sections that were not clearly objected to are reviewed for clear error to determine whether they are contrary to law. *Id.*; *see also United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989).

II. Analysis

Plaintiff timely filed objections. ECF No. 30. Because Plaintiff timely objected to the Report and Recommendation, the Court reviews it *de novo*.

Having done so and for the reasons given in the Report and Recommendation, the Court **OVERRULES** Plaintiff's objections, and **ADOPTS** the Report and Recommendation as its own order. *See also Liberty Mut. Fire Ins. Co. v. Copart of Connecticut, Inc.*, 75 F.4th 522, 536 (5th Cir. 2023) ("The duty to defend is negated here because the [underlying plaintiff] only allege[s] damage caused, either in whole or in part, by pollutants. But evidence arising from or related to the Underlying Suit may reveal that non-pollutants caused the plaintiffs' damage.")

CONCLUSION

For the foregoing reasons, it is **ORDERED** that the Report and Recommendation of United States Magistrate Judge Richard B. Farrer (ECF No. 29) is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment (ECF No. 25) is **GRANTED IN PART** and **DENIED IN PART**.

IT IS FURTHER ORDERED that Plaintiff have declaratory judgment that they have no duty to defend Defendant LP Operating, LLC in the underlying lawsuit styled *Bingham et al. v. LP Operating, LLC*, Cause No. 23-04-0258-CVA, 81st-218th District Court of Atascosa County, TX.

It is so **ORDERED**.

SIGNED this 14th day of March, 2025.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE